

ASSEMBLY BILL

No. 199

Introduced by Assembly Member Eggman

January 29, 2015

An act to amend Section 26003 of the Public Resources Code, relating to alternative energy, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 199, as introduced, Eggman. Alternative energy: recycled feedstock.

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority to provide financial assistance for projects that promote the use of alternative energies. Existing law, until January 1, 2021, authorizes the authority to approve a project for financial assistance in the form of a sales and use tax exclusion. Existing law prohibits the authority from granting sales and use tax exclusions that exceed \$100,000,000 for each calendar year.

This bill would expand projects eligible for the sales and use tax exclusion to include projects that process or utilize recycled feedstock, but would not include a project that processes or utilizes recycled feedstock in a manner that constitutes disposal.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 26003 of the Public Resources Code, as amended by Section 1 of Chapter 540 of the Statutes of 2013, is amended to read:

26003. (a) As used in this division, unless the context otherwise requires:

(1) (A) “Advanced manufacturing” means manufacturing processes that improve existing or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas:

(i) Microelectronics and nanoelectronics, including semiconductors.

(ii) Advanced materials.

(iii) Integrated computational materials engineering.

(iv) Nanotechnology.

(v) Additive manufacturing.

(vi) Industrial biotechnology.

(B) “Advanced manufacturing” includes any of the following:

(i) Systems that result from substantive advancement, whether incremental or breakthrough, beyond the current industry standard, in the production of materials and products. These advancements include improvements in manufacturing processes and systems that are often referred to as “smart” or “intelligent” manufacturing systems, which integrate computational predictability and operational efficiency.

(ii) (I) Sustainable manufacturing systems and manufacturing technologies that minimize the use of resources while maintaining or improving cost and performance.

(II) Sustainable manufacturing systems and manufacturing technologies do not include those required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority to ensure that the requirements of this clause are met.

1 (2) (A) “Advanced transportation technologies” means
2 emerging commercially competitive transportation-related
3 technologies identified by the authority as capable of creating
4 long-term, high value-added jobs for Californians while enhancing
5 the state’s commitment to energy conservation, pollution and
6 greenhouse gas emissions reduction, and transportation efficiency.

7 (B) “Advanced transportation technologies” does not include
8 those projects required to be undertaken pursuant to state or federal
9 law or regulations, air district rules or regulations, memoranda of
10 understanding with a governmental entity, or legally binding
11 agreements or documents. The State Air Resources Board shall
12 advise the authority regarding projects that are excluded pursuant
13 to this subparagraph.

14 (3) (A) “Alternative sources” means devices or technologies
15 used for a renewable electrical generation facility, as defined in
16 paragraph (1) of subdivision (a) of Section 25741, a combined
17 heat and power system, as defined in Section 2840.2 of the Public
18 Utilities Code, distributed generation and energy storage
19 technologies eligible under the self-generation incentive program
20 pursuant to Section 379.6 of the Public Utilities Code, as
21 determined by the Public Utilities Commission, or a facility
22 designed for the production of renewable fuels, the efficient use
23 of which reduce the use of fossil or nuclear fuels, and energy
24 efficiency devices or technologies that reduce the need for new
25 electric generation and reduce emissions of toxic and criteria
26 pollutants and greenhouse gases.

27 (B) “Alternative sources” does not include a hydroelectric
28 facility that does not meet state laws pertaining to the control,
29 appropriation, use, and distribution of water, including, but not
30 limited to, the obtaining of applicable licenses and permits.

31 (4) “Authority” means the California Alternative Energy and
32 Advanced Transportation Financing Authority established pursuant
33 to Section 26004, and any board, commission, department, or
34 officer succeeding to the functions of the authority, or to which
35 the powers conferred upon the authority by this division shall be
36 given.

37 (5) “Cost” as applied to a project or portion of the project
38 financed under this division means all or part of the cost of
39 construction and acquisition of all lands, structures, real or personal
40 property or an interest in the real or personal property, rights,

1 rights-of-way, franchises, easements, and interests acquired or
2 used for a project; the cost of demolishing or removing any
3 buildings or structures on land so acquired, including the cost of
4 acquiring any lands to which those buildings or structures may be
5 moved; the cost of all machinery, equipment, and furnishings,
6 financing charges, interest prior to, during, and for a period after,
7 completion of construction as determined by the authority;
8 provisions for working capital; reserves for principal and interest
9 and for extensions, enlargements, additions, replacements,
10 renovations, and improvements; the cost of architectural,
11 engineering, financial, accounting, auditing and legal services,
12 plans, specifications, estimates, administrative expenses, and other
13 expenses necessary or incident to determining the feasibility of
14 constructing any project or incident to the construction, acquisition,
15 or financing of a project.

16 (6) “Financial assistance” includes, but is not limited to, loans,
17 loan loss reserves, interest rate reductions, proceeds of bonds issued
18 by the authority, bond insurance, loan guarantees or other credit
19 enhancements or liquidity facilities, contributions of money, or a
20 combination thereof, as determined by, and approved by the
21 resolution of, the board.

22 (7) (A) “Participating party” means a person, federal or state
23 agency, department, board, authority, or commission, state or
24 community college, or university, or a city or county, regional
25 agency, public district, school district, or other political entity
26 engaged in the business or operations in the state, whether
27 organized for profit or not for profit, that applies for financial
28 assistance from the authority for the purpose of implementing a
29 project.

30 (B) (i) For purposes of Section 6010.8 of the Revenue and
31 Taxation Code, “participating party” means an entity specified in
32 subparagraph (A) that seeks financial assistance pursuant to Section
33 26011.8.

34 (ii) For purposes of Section 6010.8 of the Revenue and Taxation
35 Code, an entity located outside of the state, including an entity
36 located overseas, is considered to be a participating party and is
37 eligible to apply for financial assistance pursuant to Section
38 26011.8 if the participating party commits to, and demonstrates
39 that, the party will be opening a manufacturing facility in the state.

1 (iii) It is the intent of the Legislature by adding clause (ii) to
2 clarify existing law and ensure that an out-of-state entity or
3 overseas entity is eligible to apply for financial assistance pursuant
4 to Section 26011.8.

5 (8) (A) "Project" means a land, building, improvement to the
6 land or building, rehabilitation, work, property, or structure, real
7 or personal, stationary or mobile, including, but not limited to,
8 machinery and equipment utilized in the state, whether or not in
9 existence or under construction, that utilizes, or is designed to
10 utilize, an alternative source, or that is utilized for the design,
11 technology transfer, manufacture, production, assembly,
12 distribution, or service of advanced transportation technologies or
13 alternative source components.

14 (B) "Project," for purposes of Section 26011.8 and Section
15 6010.8 of the Revenue and Taxation Code, means tangible personal
16 property *that primarily processes recycled feedstock that is*
17 *intended to be reused in the production of another product or*
18 *utilizes recycled feedstock in the production of another product*
19 *or soil amendment, or that is utilized in the state for the design,*
20 *manufacture, production, or assembly of advanced manufacturing,*
21 *advanced transportation technologies, or alternative source*
22 *products, components, or systems. "Project" does not include*
23 *tangible personal property that processes or utilizes recycled*
24 *feedstock in a manner that would constitute disposal as defined*
25 *in subdivision (b) of Section 40192.*

26 (9) "Recycled feedstock" means materials that would otherwise
27 be destined for disposal, having completed its intended end use
28 and product lifecycle.

29 ~~(9)~~

30 (10) "Revenue" means all rents, receipts, purchase payments,
31 loan repayments, and all other income or receipts derived by the
32 authority from a project, or the sale, lease, or other disposition of
33 alternative source or advanced transportation technology facilities,
34 or the making of loans to finance alternative source or advanced
35 transportation technology facilities, and any income or revenue
36 derived from the investment of money in any fund or account of
37 the authority.

38 (b) This section shall become inoperative on July 1, 2016, and,
39 as of January 1, 2017, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2017, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 SEC. 2. Section 26003 of the Public Resources Code, as
4 amended by Section 2 of Chapter 540 of the Statutes of 2013, is
5 amended to read:

6 26003. (a) As used in this division, unless the context
7 otherwise requires:

8 (1) (A) “Advanced transportation technologies” means
9 emerging commercially competitive transportation-related
10 technologies identified by the authority as capable of creating
11 long-term, high value-added jobs for Californians while enhancing
12 the state’s commitment to energy conservation, pollution and
13 greenhouse gas emissions reduction, and transportation efficiency.

14 (B) “Advanced transportation technologies” does not include
15 those projects required to be undertaken pursuant to state or federal
16 law or regulations, air district rules or regulations, memoranda of
17 understanding with a governmental entity, or legally binding
18 agreements or documents. The State Air Resources Board shall
19 advise the authority regarding projects that are excluded pursuant
20 to this subparagraph.

21 (2) (A) “Alternative sources” means devices or technologies
22 used for a renewable electrical generation facility, as defined in
23 paragraph (1) of subdivision (a) of Section 25741, a combined
24 heat and power system, as defined in Section 2840.2 of the Public
25 Utilities Code, distributed generation and energy storage
26 technologies eligible under the self-generation incentive program
27 pursuant to Section 379.6 of the Public Utilities Code, as
28 determined by the Public Utilities Commission, or a facility
29 designed for the production of renewable fuels, the efficient use
30 of which reduce the use of fossil or nuclear fuels, and energy
31 efficiency devices or technologies that reduce the need for new
32 electric generation and reduce emissions of toxic and criteria
33 pollutants and greenhouse gases.

34 (B) “Alternative sources” does not include a hydroelectric
35 facility that does not meet state laws pertaining to the control,
36 appropriation, use, and distribution of water, including, but not
37 limited to, the obtaining of applicable licenses and permits.

38 (3) “Authority” means the California Alternative Energy and
39 Advanced Transportation Financing Authority established pursuant
40 to Section 26004, and any board, commission, department, or

1 officer succeeding to the functions of the authority, or to which
2 the powers conferred upon the authority by this division shall be
3 given.

4 (4) “Cost” as applied to a project or portion of the project
5 financed under this division means all or part of the cost of
6 construction and acquisition of all lands, structures, real or personal
7 property or an interest in the real or personal property, rights,
8 rights-of-way, franchises, easements, and interests acquired or
9 used for a project; the cost of demolishing or removing any
10 buildings or structures on land so acquired, including the cost of
11 acquiring any lands to which those buildings or structures may be
12 moved; the cost of all machinery, equipment, and furnishings,
13 financing charges, interest prior to, during, and for a period after,
14 completion of construction as determined by the authority;
15 provisions for working capital; reserves for principal and interest
16 and for extensions, enlargements, additions, replacements,
17 renovations, and improvements; the cost of architectural,
18 engineering, financial, accounting, auditing and legal services,
19 plans, specifications, estimates, administrative expenses, and other
20 expenses necessary or incident to determining the feasibility of
21 constructing any project or incident to the construction, acquisition,
22 or financing of a project.

23 (5) “Financial assistance” includes, but is not limited to, loans,
24 loan loss reserves, interest rate reductions, proceeds of bonds issued
25 by the authority, bond insurance, loan guarantees or other credit
26 enhancements or liquidity facilities, contributions of money, or a
27 combination thereof, as determined by, and approved by the
28 resolution of, the board.

29 (6) (A) “Participating party” means a person, federal or state
30 agency, department, board, authority, or commission, state or
31 community college, or university, or a city or county, regional
32 agency, public district, school district, or other political entity
33 engaged in the business or operations in the state, whether
34 organized for profit or not for profit, that applies for financial
35 assistance from the authority for the purpose of implementing a
36 project.

37 (B) (i) For purposes of Section 6010.8 of the Revenue and
38 Taxation Code, “participating party” means an entity specified in
39 subparagraph (A) that seeks financial assistance pursuant to Section
40 26011.8.

(ii) For purposes of Section 6010.8 of the Revenue and Taxation Code, an entity located outside of the state, including an entity located overseas, is considered to be a participating party and is eligible to apply for financial assistance pursuant to Section 26011.8 if the participating party commits to, and demonstrates that, the party will be opening a manufacturing facility in the state.

(iii) It is the intent of the Legislature by adding clause (ii) to clarify existing law and ensure that an out-of-state entity or overseas entity is eligible to apply for financial assistance pursuant to Section 26011.8.

(7) (A) “Project” means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment utilized in the state, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) “Project,” for purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, means tangible personal property *that primarily processes recycled feedstock that is intended to be reused in the production of another product or utilizes recycled feedstock in the production of another product or soil amendment, or that is utilized in the state for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems. “Project” does not include tangible personal property that processes or utilizes recycled feedstock in a manner that would constitute disposal as defined in subdivision (b) of Section 40192.*

(8) “Recycled feedstock” means materials that would otherwise be destined for disposal, having completed its intended end use and product lifecycle.

~~(8)~~

(9) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue

1 derived from the investment of money in any fund or account of
2 the authority.

3 (b) This section shall become operative on July 1, 2016.

4 SEC. 3. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to provide incentives for the development of projects
9 that process or utilize recycled feedstock for the protection of the
10 public health and environment, it is necessary for this act to take
11 effect immediately.